

NCUA before releasing any perpetual contributed capital funds.

(4) Perpetual contributed capital cannot be used to pledge borrowings.

(5) Perpetual contributed capital is perpetual maturity and noncumulative dividend.

(6) Availability to cover losses.

(a) Perpetual contributed capital issued before January 18, 2011 is available to cover losses that exceed retained earnings. Any such losses must be distributed *pro rata*, at the time the loss is realized, among holders of perpetual contributed capital issued before January 18, 2011. To the extent that perpetual contributed capital funds are used to cover losses, the corporate credit union is prohibited from restoring or replenishing the affected accounts under any circumstances.

(b) Perpetual contributed capital issued on or after January 18, 2011 is available to cover losses that exceed retained earnings and any contributed capital issued before January 18, 2011. Any such losses must be distributed *pro rata*, at the time the loss is realized, among holders of perpetual contributed capital issued on or after January 18, 2011. To the extent that perpetual contributed capital funds are used to cover losses, the corporate credit union is prohibited from restoring or replenishing the affected accounts under any circumstances.

(c) Attached to this disclosure is a statement that describes the amount of perpetual capital the credit union has with the corporate credit union in each of the categories described in paragraphs (6)(a) and (6)(b) above.

(7) Where the corporate credit union is liquidated:

(a) Perpetual contributed capital accounts issued on or after January 18, 2011 are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF, but not including contributed capital accounts issued before January 18, 2011. However, perpetual contributed capital that is used to cover losses in a calendar year previous to the year of liquidation has no claim against the liquidation estate.

(b) Perpetual contributed capital accounts issued before January 18, 2011 are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF, nonperpetual capital accounts issued before January 18, 2011, and all contributed capital accounts issued on or after January 18, 2011. However, perpetual contributed capital that is used to cover losses in a calendar year previous to the year of liquidation has no claim against the liquidation estate.

I have read the above terms and conditions and I understand them. I further agree to maintain in the credit union's files the an-

nual notice of terms and conditions of the perpetual contributed capital instrument.

The notice form must be signed by either all of the directors of the credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

[75 FR 64848, Oct. 20, 2010, as amended at 75 FR 71528, Nov. 24, 2010; 76 FR 79534, Dec. 22, 2011]

#### APPENDIX B TO PART 704—EXPANDED AUTHORITIES AND REQUIREMENTS

A corporate credit union may obtain all or part of the expanded authorities contained in this appendix if it meets the applicable requirements of part 704 and appendix B, fulfills additional management, infrastructure, and asset and liability requirements, and receives NCUA's written approval. Additional guidance is set forth in the NCUA publication Guidelines for Submission of Requests for Expanded Authority.

A corporate credit union seeking expanded authorities must submit to NCUA a self-assessment plan supporting its request. A corporate credit union may adopt expanded authorities when NCUA has provided final approval. If NCUA denies a request for expanded authorities, it will advise the corporate credit union of the reason(s) for the denial and what it must do to resubmit its request. NCUA may revoke these expanded authorities at any time if an analysis indicates a significant deficiency. NCUA will notify the corporate credit union in writing of the identified deficiency. A corporate credit union may request, in writing, reinstatement of the revoked authorities by providing a self-assessment plan detailing how it has corrected the deficiency.

A state chartered corporate credit union may not exercise any expanded authority that exceeds the powers and authorities provided for under its state laws. Accordingly, requests by state chartered corporate credit unions for expansions under this part must be approved by the state regulator before being submitted to NCUA.

##### *Minimum Requirement*

In order to participate in any of the authorities set forth in Base-Plus, Part I, Part II, Part III, or Part IV of this Appendix, a corporate credit union must evaluate monthly, including once on the last day of the month, the changes in NEV, NEV ratio, NII, WAL, and duration as required by paragraphs (d)(1)(i), (e), (f), (g), and (i) of §704.8.

##### *Base-Plus*

A corporate that has met the requirements for this Base-plus authority may, in performing the rate stress tests set forth in 704.8(d)(1)(i), allow its NEV to decline as much as 20 percent.

## National Credit Union Administration

## Pt. 704, App. B

### Part I

(a) A corporate credit union that has met all the requirements established by NCUA for this Part I, including a minimum capital ratio of at least six percent, may:

- (1) Purchase investments with long-term ratings no lower than A- (or equivalent);
- (2) Purchase investments with short-term ratings no lower than A-2 (or equivalent), provided that the issuer has a long-term rating no lower than A- (or equivalent) or the investment is a domestically-issued asset-backed security;
- (3) Engage in short sales of permissible investments to reduce interest rate risk;
- (4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk; and
- (5) Enter into a dollar roll transaction.

(b) In performing the rate stress tests set forth in §704.8(d), the NEV of a corporate credit union that has met the requirements of this Part I may decline as much as:

- (1) 20 percent;
- (2) 28 percent if the corporate credit union has a seven percent minimum capital ratio and is specifically approved by NCUA; or
- (3) 35 percent if the corporate credit union has an eight percent minimum capital ratio and is specifically approved by NCUA.

(c) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors must establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

(d) The aggregate total of investments purchased under the authority of Part I (a)(1) and Part I (a)(2) may not exceed the lower of 500 percent of the corporate credit union's capital or 25 percent of assets.

(e) On or after October 20, 2011, corporate credit unions will substitute "leverage ratio" for "capital ratio" wherever it appears in Part I.

### Part II

(a) A corporate credit union that has met the requirements of Part I of this Appendix and the additional requirements established by NCUA for Part II may invest in:

- (1) Debt obligations of a foreign country;
- (2) Deposits and debt obligations of foreign banks or obligations guaranteed by these banks;
- (3) Marketable debt obligations of foreign corporations. This authority does not apply to debt obligations that are convertible into the stock of the corporation; and
- (4) Foreign issued asset-backed securities.

(b) All foreign investments are subject to the following requirements:

(1) Investments must be rated no lower than the minimum permissible domestic rating under the corporate credit union's Part I authority;

(2) A sovereign issuer, and/or the country in which an obligor is organized, must have a long-term foreign currency (non-local currency) debt rating no lower than AA- (or equivalent);

(3) For each approved foreign bank line, the corporate credit union must identify the specific banking centers and branches to which it will lend funds;

(4) Obligations of any single foreign obligor may not exceed 25 percent of capital or \$5 million, whichever is greater; and

(5) Obligations in any single foreign country may not exceed 250 percent of capital.

### Part III

(a) A corporate credit union that has met the requirements established by NCUA for this Part III may enter into derivative transactions specifically approved by NCUA to:

- (1) Create structured products;
- (2) Mitigate interest rate risk and credit risk on its own balance sheet; and
- (3) Hedge the balance sheets of its members.

(b) Credit Ratings:

(1) All derivative transactions are subject to the following requirements:

(i) If the intended counterparty is domestic, the counterparty rating must be no lower than A- (or equivalent) by every NRSRO that provides a publicly available long-term rating on the counterparty;

(ii) If the intended counterparty is foreign, the corporate must have Part II expanded authority and the counterparty rating must be no lower than the minimum permissible rating for a comparable term investment under Part II Authority;

(iii) The corporate must identify the rating(s) relied upon to meet the requirements of this part at the time the transaction is entered into and monitor those ratings for as long as the contract remains open; and

(iv) The corporate credit unions must comply with §704.10 of this part if any rating relied upon to meet the requirements of paragraphs (b)(1)(i) or (ii) of this part is downgraded below the minimum rating requirements.

(2) Exceptions. Credit ratings are not required for derivative transactions with:

- (i) Domestically chartered credit unions;
  - (ii) U.S. government sponsored enterprises;
- or

(iii) Counterparties where the transaction is fully guaranteed by an entity with a minimum permissible rating for comparable term investments.

Part IV

A corporate credit union that has met all the requirements established by NCUA for this Part IV may participate in loans with member natural person credit unions as approved by the NCUA and subject to the following:

(a) The maximum aggregate amount of participation loans with any one member credit union must not exceed 25 percent of capital; and

(b) The maximum aggregate amount of participation loans with all member credit unions will be determined on a case-by-case basis by the NCUA.

[75 FR 64851, Oct. 20, 2010]

EFFECTIVE DATE NOTE: At 77 FR 74111, Dec. 13, 2012, appendix B was amended by removing Part I (a)(2); redesignating Part I (a)(3), (4), and (5) as Part I (a)(2), (3), and (4), respectively; removing Part II (b)(2); redesignating Part II (b)(3), (4), and (5) as Part II (b)(2), (3), and (4), respectively; and revising Part I (a)(1), Part II (b)(1), and Part III (b), effective June 11, 2013. For the convenience of the user, the revised text is set forth as follows:

APPENDIX B TO PART 704—EXPANDED AUTHORITIES AND REQUIREMENTS

\* \* \* \* \*

PART I

\* \* \* \* \*

(a) \* \* \*

(1) Purchase an investment after conducting and documenting an analysis that reasonably concludes the investment is at least investment grade;

\* \* \* \* \*

PART II

\* \* \* \* \*

(b) \* \* \*

(1) Investments must be made pursuant to an explicit policy established by the corporate credit union's board of directors. Before purchasing an investment, the corporate credit union must conduct and document an analysis that reasonably concludes the foreign issue or issuer has no more than a minimal amount of credit risk;

\* \* \* \* \*

PART III

\* \* \* \* \*

(b) Credit Quality:

All derivative transactions are subject to the following requirements:

(1) If the intended counterparty is domestic, the counterparty must meet minimum credit quality standards as established by the corporate's board of directors;

(2) If the intended counterparty is foreign, the corporate must have Part II expanded authority and the counterparty must meet minimum credit quality standards as established by the corporate's board of directors;

(3) The corporate must identify the criteria relied upon to determine that the counterparty meets the credit quality requirements of this part at the time the transaction is entered into and monitor those criteria for as long as the contract remains open; and

(4) The corporate must comply with §704.10 of this part if the credit quality of the counterparty deteriorates below the minimum credit quality standards established by the corporate's board of directors.

\* \* \* \* \*

APPENDIX C TO PART 704—RISK-BASED CAPITAL CREDIT RISK-WEIGHT CATEGORIES

TABLE OF CONTENTS

I. Introduction

(a) Scope

(b) Definitions

II. Risk-Weightings

(a) On-balance sheet assets

(b) Off-balance sheet activities

(c) Recourse obligations, direct credit substitutes, and certain other positions

(d) Collateral

PART I: INTRODUCTION

(a) Scope

(1) This Appendix explains how a corporate credit union must compute its risk-weighted assets for purposes of determining its capital ratios.

(2) Risk-weighted assets equal risk-weighted on-balance sheet assets (computed under Section II(a) of this Appendix), plus risk-weighted off-balance sheet activities (computed under Section II(b) of this Appendix), plus risk-weighted recourse obligations, direct credit substitutes, and certain other positions (computed under Section II(c) of this Appendix).

(3) Assets not included (*i.e.*, deducted from capital) for purposes of calculating capital under part 704 are not included in calculating risk-weighted assets.

(4) Although this Appendix describes risk-weightings for various assets and activities, this Appendix does not provide authority for